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D E F E N C E S

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GEORGE STRATTON, Esq;

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And the MAJORITY of COUNCIL at MADRAS,

IN ANSWER TO

The ACCUSATION brought against them for the supposed
Murder of LORD PIGOT.

CONTAINING ALSO

A concise NARRATIVE of the Proceedings of LORD PIGOT,
which occasioned his Arrest and Suspension from the Government;
stating the Conduct of the different Parties on that Occasion, with
their Motives for continuing his Lordship under Restraint; and
shewing the Nature of that Restraint.

LIKEWISE

The Separate DEFENCE of Brigadier-General STUART,
For Himself, and for the MILITARY under his Command.

[Extracted from ORIGINAL PAPERS lately published.]

L O N D O N :

Printed for T. CADELL, in November 1778.

D E F E N C E S

GEORGE STARATON, Esq.

AND A MAJORITY OF COUNCIL IN ALABAMA

IN ANSWER TO

The Address brought against them for the supposed
Murder of LORD FITZG.

CONTAINING ALSO

A NARRATIVE of the Proceedings of LORD FITZG.
which occurred, his arrest and detention from the Government;
and the conduct of the several parties on that occasion, with
their motives for so conducting his Lordship under the laws,
showing the Justice of the sentence.

THE STATE OF ALABAMA, GEORGE STARATON, Esq.
and a majority of the Council in Alabama.

ADVERTISEMENT.

THESE Defences are taken from a Collection of Papers lately published under the following title :
 “ Original Papers; with an authentic State of the Proofs
 “ and Proceedings before the Coroner’s Inquest, which
 “ was assembled at Madras, upon the Death of Lord
 “ Pigot, on the 11th day of May 1777; likewise the
 “ subsequent Proofs and Proceedings before the Justices at
 “ Madras, with the Opinions of the Judges of the Supreme
 “ Court of Judicature in Bengal. To the whole are sub-
 “ joined, the Defence of Mr. Stratton, and the other
 “ Members of Council, accused by the Verdict of the
 “ Coroner’s Inquest; and the separate Defence of Brigadier-General Stuart, for himself and the Military under
 “ his Command, &c. London: Printed for T. Cadell,
 “ in the Strand, 1778.”

The Defence of Governor Stratton, &c. is to be found in that Collection, page 201, preceded by this explanatory Note :

“ In the foregoing Collection of Authentic Papers, the
 “ proceedings subsequent to the death of Lord Pigot (under
 “ the form of a Coroner’s Inquest) have been faithfully exhibited, with every proof or information that was produced
 “ on that occasion.

“ The conduct of the Justices at Madras, in consequence
 “ of these proceedings, has in like manner been faithfully
 “ stated from their records, down to the time when these
 “ Justices, in conformity with the unanimous opinion of the
 “ Judges of the Supreme Court of Judicature in Bengal,
 “ declared,

“ declared, “ That the said proceedings were irregular and
 “ contrary to law, and accordingly resolved, that the
 “ whole be quashed and laid aside.”

“ Previous to this decision of the Justices, Mr. Stratton
 “ and the other Gentlemen accused, had prepared the follow-
 “ ing DEFENCES that were to be given into Court, had they
 “ been put upon their trial, which they had earnestly requested
 “ might take place, that they might have an opportunity of
 “ publicly refuting the charge, upon the spot where the trans-
 “ actions had happened, and where they could appeal to so
 “ many witnesses of their conduct.

“ As it is so generally known, that the Inquest assembled
 “ by Mr. Ram, after examining many witnesses, and after
 “ meetings and deliberations during several months, had
 “ brought in a verdict of WILFUL MURDER against Mr.
 “ Stratton, and the other Gentlemen accused by them; and
 “ as the papers and proceedings published in the preceding
 “ Collection (in which there has been no mixture of observa-
 “ tions or arguments in favour either of the one party or
 “ the other) tend chiefly to show the accusations that were
 “ brought against the persons to whom that crime was im-
 “ puted, without giving any precise or complete view of the
 “ answers to these accusations, or of the defences that were
 “ to have been made, if the trial had proceeded, it is pre-
 “ sumed, that the Public, desirous of full information, and
 “ disposed to judge with impartiality concerning the conduct
 “ of those to whom so heinous a crime has been imputed, will
 “ be well satisfied to find, in this Collection, the genuine
 “ DEFENCES of the persons accused, as well as all the infor-
 “ mations, proofs, and endeavours, which were employed for
 “ the purpose of criminating them.”

D E F E N C E

O F

George Stratton, Esq; Governor,

Henry Brooke,

Charles Floyer,

Archdale Palmer,

Francis Jourdan,

and

George Mackay,

} Esquires, of Council at *Madras,*

Accused of the wilful Murder of the late Lord *Pigot.*

Gentlemen of the Jury,

TO appear as culprits at the bar of that Court where many of us have often sat as Judges, added to the anxiety which a public scrutiny into our conduct naturally occasions, and to the apprehensions which a trial for our lives necessarily gives rise to, would be fully sufficient to throw such a damp on our minds as may render us incapable of laying our actions before the world in that clear and satisfactory manner which we think requisite to obviate the opprobrium, with which the partisans of the late Lord Pigot wish to cover us. These circumstances, we say, would be sufficient to deprive us of the power of refuting the base and disingenuous charge against us, were we not firm in our own innocence, convinced in ourselves of the propriety of our conduct, and confident in the impartiality, candour, and justice of the Court and Jury.—A simple narrative of facts, known to almost every person here, with a few fair and honest arguments, are all we shall offer in our defence; but few and simple as they are, upon them we rest our lives and reputations.

The crime imputed to us is nothing less than the premeditated murder of the late Noble Lord: We are charged with having feloniously arrested, and confined him, and by this confinement to have occasioned his death; but, conscious that our hearts have been ever free from guilt, we have desired nothing more than a trial of the accusation by our country, and we are here ready to stand or fall by their decision. We do not wish to give unnecessary delays, nor to enter into any point in the least foreign to the subject of this awful day's enquiry; but though the question to be here determined is, Whether we have wilfully and maliciously murdered Lord Pigot, or whether we have not? yet we wish to be indulged in an entire liberty, here publicly to vindicate our conduct at large, and to set the necessity and legality of our measures in the justest and fairest light; for we think it requisite not only to remove the idea of murder, or personal ill-will to the late Noble Lord, but also to obviate that of an unnecessary arrest and confinement.

The Council, from the great confidence they had in the fidelity, as well as military abilities of Brigadier General, then Colonel Stuart appointed him to the important command of Tanjore. In consequence of the appointment, the then Commander in Chief laid before the Board a draft of instructions to be delivered to him previous to his departure, and Mr. Floyer moved, That his Lordship should put the question to take it into consideration.

Lord Pigot had often declared, That he would never consent to his proceeding to Tanjore, unless Mr. Russel was also permitted to go there as Resident; and although the question had been put, that this Gentleman should go in that capacity, and carried in the negative (as he had been ordered by the Company themselves on the circuit), yet he absolutely refused to put the question, To take the instructions into consideration.—His Lordship being a man of a very warm temper, Mr. Stratton moved to adjourn to the next day, hoping he would reflect on his conduct, and be before then fully sensible of the impropriety of it; but the next day produced no change in the arbitrary manner of his proceeding; for he again absolutely refused to put the question, or order it to be put by the Secretary.

There was now no mode left for Mr. Floyer, who had moved it, but to collect the sentiments of the several Members of the Board for their coming to a decision upon it. This he did, and the majority of the Council approving of the instructions, they were entered
accord-

accordingly; the Majority having previously entered a minute expressive of their approbation, which was signed by them at the President's desire.

The obstinacy of the President, in not conforming to the regulations of the Company, after the many entreaties that were made him, and an evident desire to center in himself all the powers of government, induced Mr. Stratton to desire the standing orders of the Company of the 3d January 1678 to be read; these declare that "*Whatever shall be agreed on by the Majority shall be esteemed the order by which each are to act, and accordingly every individual person, even the dissenters themselves, are to perform their parts in the prosecution thereof, and in so doing they do their duty.*" He also desired that those of the 9th March 1702 might be read, where it is said, "*We do strictly enjoin that all our affairs be transacted in Council, and ordered and managed as the Majority of the Council shall determine, and not otherwise upon any pretence whatsoever.*" He also begged leave to have it recorded, that by the late Act of Parliament the Governor General himself is obliged, though the first servant of the Company in India, to conform to the opinions, and to adopt the resolutions of the Majority of the Council.

Mr. Stratton having thus given Lord Pigot every information that was necessary to remove any error in his judgment, Mr. Mackay proposed, and the Majority were of opinion, that the instructions should be written fair; and that a letter should be prepared to order Colonel Harper to deliver up the command of Tanjore to General Stuart: but his Lordship, still deaf to remonstrance, declared he would never put his name to them, and that without his name they were not an act of government.

This strange and pernicious doctrine laid such of us here, as were then of the Council, under the necessity of expressing our astonishment at such extraordinary declarations. We were under the necessity to deny that the concurrence of the President is requisite to constitute an act of government, and to declare his Lordship's conduct unconstitutional and illegal; we were forced by duty to our Honourable Employers on such an occasion to assert, that the Minority are obliged to assist in carrying into execution the orders of the Majority, by subscribing to their resolutions; and that the President is as much bound by those orders, as any other Member of the Board.

Yet lest he should imagine that we meant to impose laws of our own institution upon him, we referred, in support of our assertion, to the narrative of Mr. Vanstittart; where it is said (and it certainly was not written to answer our purposes), "*that the resolutions of the majority are to be deemed the resolutions of the Board, and to be signed by the whole Board.*" Where it is observed, that that Gentleman himself, in conformity with the general and established rule, signed instructions which he disapproved, because they met with the approbation of the majority of Council. We thought it also necessary to declare, we were of opinion, that in case of the President's refusal to put a question proposed by any Member, it should be the duty of the Secretary to put it; that of every Member of the Council to answer it; and that a refusal to answer should be deemed a breach of the Company's standing orders.

In this manner did we endeavour to make his Lordship sensible of the irregularity of his conduct, and the despotism of his measures; but he still persevered, and again peremptorily refused to sign either the instructions or the letter to Colonel Harper.

In consequence of this unprecedented obstinacy, we as the majority were of opinion, that they should be signed by the Secretary by order of Council; taking this mode out of delicacy to his Lordship, and in pursuance of the moderation we had always observed; for we could have obliged both him and the other Members to have signed the letter, or have suspended them the service on a refusal.

An order was accordingly written to that purpose to Mr. Secretary Sullivan; and being approved of by the majority, was signed by Mr. Stratton and Mr. Brooke; and would have been also signed by the rest of the majority, had not Lord Pigot snatched it out of Mr. Brooke's hand, as he was reading it to Mr. Floyer.

Becoming thus master of the order, he produced a paper (ready written and prepared, to answer a hasty and undigested, although premeditated purpose), charging Mr. Stratton and Mr. Brooke with "*being guilty of an act subversive of the authority of government, and tending to introduce anarchy, in signing orders to the Secretary to give instructions to Colonel Stuart, which were not approved and passed by the President and Council.*" And at the same time he recommended, that "*as the charge was of the highest nature, those Gentlemen should be ordered to withdraw, that their conduct may*"
" be

" be taken into consideration." Surprised at this motion, Mr. Jourdan moved to adjourn till the next day, and was seconded by Mr. Mackay; but instead of putting the question of adjournment, according to the constant practice, he put that for the suspension; and directing the Secretary not to receive the votes of these two Gentlemen, he arrogated to himself a privilege of judging in a cause where he himself was the accuser, contrary to the principles of the constitution; and thus by assuming a right to himself which he denied to them, he reduced the majority to an equality with his party, and carried the suspension by his casting voice, or double vote.

In this violent and extraordinary manner he deprived these Gentlemen of their rights, not only as Councillors, but as free-born British subjects; who, by the laws of England, are to be judged by uninterested and impartial men; and assumed to himself and his associates those reins of government which the standing orders of the Honourable Company, as well as the late act of parliament, had placed in the hands of the majority, and consequently in ours.

Yet not content with this, when with the late Sir Robert Fletcher, then Commander in Chief, and a Member of the Board, we asserted our rights, and publicly protested against him and his minority; when we declared that we should hold them responsible for all the consequences that might ensue, and that we considered ourselves as the only legal representatives of the Company; when, we say, we had done this, and distributed copies of our protest, thus asserting our rights and the standing orders of our honourable employers; he had the temerity, with the concurrence of his associates, to suspend Messrs. Floyer, Palmer, Jourdan, and Mackay; nay, he pushed his violence to such a degree of outrage, as to order Sir Robert Fletcher into immediate arrest, and to be brought to a general court-martial, under the pretence of circulating letters tending to excite mutiny and sedition among the troops in garrison; although these letters were nothing more than the protest signed by him in his civil capacity of Councillor, and as forming, in conjunction with us, a real and constitutional majority of the Council.

Justly alarmed for the life of the Commander in Chief, thus struck at by an usurped authority, as well as for ourselves, who might have been with equal reason treated in the same manner; for the peace of the Carnatic, and the commercial interests of the Company; for the impartial distribution of justice, and the public safety;

we saw the necessity of a vigorous and timely exertion of that authority, which since the establishment of the settlement has been vested in the majority of the Board.

We accordingly held a Council, and upon the most mature deliberation agreed, that the fortress and garrison of Fort St. George ought to be in our hands, and under our command, as the legal representatives of the East-India Company; for otherwise we must have remained silent spectators of the free and uncontrouled exercise of an usurped power, deprived of the means of enforcing our orders, or of fulfilling, in the slightest degree, our duty to the Company, unless, by exciting the troops to mutiny, we embued our hands in the blood of our fellow-citizens, and arrived, by a means so shocking to humanity, at a re-possession of our rights and privileges.

For this purpose we empowered General Stuart, on whom, during the indisposition of Sir Robert Fletcher, we conferred the command of the army (as well as of the garrison of Fort St. George during the then present danger), to take such measures as he should judge most proper to answer the end we proposed; which was, that public tranquillity might be restored, and the business of the Honourable Company carried on in the usual manner. Uncertain, besides, to what further excess the violence of Lord Pigot (who seemed to acknowledge no law but his will) might proceed, we also thought proper to order General Stuart to arrest his person, if he thought it necessary, to avoid tumult and the effusion of blood.

General Stuart, having received full information of the grounds on which we had separated ourselves from Lord Pigot and his associates, knew his duty too well to delay obedience to our orders, and therefore immediately formed the plan of putting this fortress into our possession, with as little danger and confusion as possible. But to effect this, he looked upon the arrest of Lord Pigot as an object of the greatest importance, and accordingly took proper measures to arrest him, even in the fort, had it been requisite; but we shall ever think it a fortunate circumstance, that he was not driven to that perhaps bloody extremity.

We must beg leave to observe, that the general order of Lord Pigot and the Gentlemen of the minority to put Sir Robert Fletcher under arrest, and to order him to be tried by a general court-martial,

tial, having appointed General Stuart to the command of the troops under this Presidency; the General wrote, in consequence of the appointment, to Lord Pigot, declaring that he was very imperfectly informed of the steps which led to the honour conferred on him; and that not thinking himself entitled to a seat in Council, as matters were then circumstanced, he hoped his Lordship would allow him to peruse the consultations, or other papers passed in Council, on occasion of those unhappy differences, as he wished to act from information, so as to do his duty to his honourable employers, with honour to himself, and a just observance to his oath of fidelity to the Company. He also said, that he trusted that his Lordship would not refuse him a favour that the practice of the Service had conferred on persons honoured with the chief command. But Lord Pigot was too conscious that a perusal of the consultations would convince him of the irregularity of his appointment, to comply with the request.

At Council, to which he was summoned in the evening, he made this application, and he again urged the propriety of affording him the information he desired, but to no effect. Great pains were however taken, to obtain a public acknowledgment from him of the authority of that part of the Council which were then assembled; a striking proof, that they were themselves conscious of the illegality of it. And when the Fort Adjutant had delivered to him, by order of Lord Pigot, the general orders appointing him to the command of the army, his Lordship desired to meet him in the Fort Square; where having had some conversation with him apart, he told him, that he considered his having received the general orders without objection, as an acknowledgment of the authority by which they were published; a circumstance which surely discovers, that his Lordship's private sentiments were, that the legal government was lodged in other hands than his.

The General, however, not thinking it at that time proper to declare his opinion, contented himself with observing, that he owed to the Court of Directors his appointment of second in command, and with entreating his Lordship to give him the information he desired, before he should be called upon for any executive act as Commander in Chief. But his Lordship, conscious, as we have said, that a perusal of the records would set his conduct in too unfavourable a light to meet with the approbation or support of the army, either constantly eluded the request, or, allowing it to be reasonable,

objected to its propriety, as having the appearance of a bargain before he would consent to do his duty.

Thus, although the General could never bring Lord Pigot to his point, yet his Lordship never lost sight of his own; and at the last Council that he and the minority held at the Fort House, used every effort to obtain an avowed acknowledgment of their authority from him by some public act, and particularly by his directing, as Commander in Chief, the Adjutant General to publish in general orders to the army the resolution of their Council, whereby Sir Robert Fletcher was put in arrest, and himself appointed to the command.

But perceiving the tendency of this application, and that if he acted in one instance only, it would be a tacit acknowledgment of an authority in them which he was firmly persuaded was placed in the hands of the majority; that acting even in that one instance would oblige him to continue to act under their orders, for the sake of uniformity in his conduct, and force him to set the military power in opposition to the legal civil government; that he would be obliged to pay an implicit obedience to an usurped authority, or be treated like Sir Robert Fletcher, and subjected like him, should he remonstrate even in his civil capacity, to an arrest and trial by a general court-martial; perceiving such consequences to a compliance with their demand, the General expressed the hardship of obliging him to take this, or any other step, without communicating to him the ground and reason of their proceedings, and added, he considered it as a right due to the officer commanding the forces, who from his station was entitled to a seat at the Board; but at the same time he judged, that they would continue to act in the same violent and despotic manner that they had already done, and was soon confirmed in his opinion; for he was now informed by Mr. Dalrymple, that it was his duty to obey; thereby giving him to understand, that though they had called him into Council, they did not mean to afford him further information than may be necessary to answer their own purposes, or turn to their own advantage.

General Stuart, now more than ever convinced of the necessity of dissolving the confederacy, and of arresting the person of Lord Pigot, took, as we have said, the proper measures for doing it without noise or public disturbance. For this purpose, he ordered Colonel Eidingtoun to arrest him at some distance from the Fort, in the name of the Government, and to hand him over to Captain Lysaght,

who was charged to deliver him with the general orders to Major Horne at the Mount. The orders were punctually executed, and his Lordship arrested without bloodshed or insult.

Thus far, Gentlemen, we have acquainted you with these circumstances that led to the arrest; but we have still to relate our motives for continuing his Lordship under restraint, as also the nature of it, and the treatment he met with at the Mount.

Captain Lyfaght, agreeable to his instructions delivered him over to Major (now Colonel) Horne with the General's orders, which directed him to take his Lordship into his charge until he received further orders from us; but at the same time desired that his family and servants might be permitted to visit and attend him; as also that they might be treated with every mark of attention and respect consistent with the situation in which the exigency of affairs made it then necessary to place him.

His Lordship expressed his satisfaction, that we had made choice of a gentleman, whom he had long known to be a man of honour, and at whose house he was confident he should suffer no indignity. Colonel Horne assured him, in the most obliging terms, of every respect and attention in his power, and immediately gave orders for the Officer's guard then mounted at his quarters, as well as for all others at the Mount, to pay him the same military honours he had received in the Fort; and so far was he from wishing to treat him with the least indignity, or permitting him to suffer the slightest inconvenience, that he gave up to his Lordship the best and only good apartment in his house. The better to accommodate him, Mrs. Horne and he contented themselves with a very small room much exposed to the sun and whose excessive closeness not only contributed much to weaken her constitution, but also obliged the Colonel himself, for six weeks together before Lord Pigot left the Mount, to sleep in an open veranda amongst a number of his Lordship's black servants.

Every part of his Lordship's family were requested to be with him as much as possible; and Mrs. Horne particularly entreated Mrs. Monckton and Miss Pigot to give his Lordship as much of their company as they could. Indeed, so very sensible were himself and his friends of the attention and respect paid him, that the second evening after his arrival at the Mount, he appeared easy and cheerful, and

and walked out in the Plain, to all appearance perfectly reconciled to his situation; and would have continued as happy and contented as it is possible to be in such circumstances, had not the imprudence of his friends broke in upon his repose.

Mr. Claud Russell had attempted to put the main guard under arms the night of his Lordship's arrest; and shortly after the Board received information, that underhand practices were made use of to tamper with the troops in garrison, as well as with the corps of artillery at the Mount. This laid them under a necessity of taking proper precautions for the public peace and tranquillity. So near the Fort, Lord Pigot would have had it too easily in his power to disturb that tranquillity, by means of his friends and associates, whose passions were already raised to such a degree of madness, that they would have readily adopted and executed the most violent measures. So near the Fort, every day would have afforded him opportunities of creating fresh divisions in the settlement, of raising mutiny and sedition among the soldiery, and of giving birth, perhaps, to all the horrors of a civil war.

We therefore judged it prudent to remove his Lordship to a place of greater safety; and accordingly ordered Colonel Eidingtoun to conduct him to Chingleput, where we had sent Major Cook to take the command, and to receive his Lordship. This we ordered to be done in the most secret manner possible, to prevent public disturbances. For the same reason, and to induce a ready compliance on the part of Lord Pigot, we directed Colonel Horne to inform him, that as the last resource, in case of an attempt to rescue, his life must answer it. But so little regard did he pay to this menace, that he made use of the most irritating expressions towards Colonel Eidingtoun, who had it then in his power to treat him rudely, could he have so far forgot what he owed to himself as a gentleman; and not content with this, nor with expressing himself in the most indecent and imprudent manner with respect to us, he publicly harangued the guard, that was then drawn out to put our orders into execution, and endeavoured, by every argument that could work upon the mind or passions of a soldier, to stir them up to mutiny.

Colonel Eidingtoun and Colonel Horne were both convinced of the daring and intrepid spirit of Lord Pigot, by his having even thus singly opposed the execution of our orders; at the same time too

they were confident, that notwithstanding our menaces we never meant that the least violence should be offered to his Lordship's person, and that although seemingly positive, it was only intended to prevent the rash attempts of himself and his friends. Had Colonel Horne regarded the order in any other light, he would have thought it his indispensable duty to force an immediate obedience to it on the part of Lord Pigot; they therefore agreed not to proceed further until they had fresh instructions from the board, upon receiving his Lordship's word of honour, not to make any attempt to escape, nor to employ his friends or dependants to tamper with the troops, which from the violence shewn on every occasion by his Lordship's adherents the Board had reason to suspect.

Some of Lord Pigot's friends declaring on this occasion, that we meant to remove him to Gingee, used every means to excite mutiny among the soldiers, yet Colonel Horne, persuaded of the steadiness of his men, shewed them a degree of lenity, that nothing but his own humanity could excuse; and though he would have been justifiable, had he treated them in the severest manner, he contented himself with informing us of the rashness and inefficacy of the attempt.

In consequence of his letter, we wrote to Lord Pigot, and expressed an extreme concern that a notion should have prevailed in his Lordship's mind that he was to have been removed to Gingee. We assured him, that no such idea ever did or could have occurred to us; and we took this opportunity to make him an offer of removing to any settlement on the coast, that he should give a preference to, where there was a Chief and a Council, provided he pledged his word of honour to remain in quietness within the bounds of such settlement until the Company's pleasure should be known. We told him, that if he consented to this proposal, we would order the best house in the place to be prepared for him, that every necessary should be furnished at the Company's expence, and that every respect and attention should be paid to his person. At the same time that we made his Lordship this offer, we informed him, that if he should prefer embarking for Europe in one of the Company's ships, we would order him every accommodation in our power.

Convinced of the necessity of restraining his Lordship from coming into the Fort, or of removing him to such a distance from it as would leave us no apprehensions for the public safety, or the peace
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of the Carnatic, it was surely a proof of our wish to contribute to his satisfaction, as much as lay in our power, to give him an opportunity of chusing his place of residence. But his Lordship would not pledge his word of honour to remain quiet until the Company's pleasure should be known, and seemed so happy in the place of retirement we had already chosen for him, that he would have rather lost his life (to use his own expression) than have exchanged it, except for the Fort, which we could never think of giving up, or the King's ship, which we were obliged to refuse him, as the Commodore Sir Edward Hughes would not in that case answer for the peace of the Carnatic. As he seemed, we found, so well pleased with the Mount, we resolved to let him remain there, in the free enjoyment of his family and friends.

We even permitted Colonel Horne to indulge him in the free and unlimited range of the whole country, accompanied by himself or the officer of the guard; he amused himself walking in the neighbourhood of the Mount, or playing at cards, or at billiards; he was cheerful and merry at table, and frequently sung after supper with Miss Prime, a young Lady of Colonel Horne's family, particularly a song he taught her himself, and of which he gave her the words.

On so confidential a footing was Colonel Horne with Lord Pigot, that he used to converse with him on subjects of the most interesting and delicate nature, and his Lordship seemed so well satisfied with his behaviour, and that of his family, that he paid a very particular attention to every person that composed it. Mr. Ross, Mr. Smith, Mr. Turing, and Mr. Taswell, with their families, often dined with him, and were witnesses of his conduct. Mr. Monckton and the Colonel's family were on the most cordial terms; they dined and supped frequently with his Lordship at each other's houses, and Mrs. Monckton and Miss Pigot drank tea almost constantly with the Ladies of his family; most evenings his Lordship received visits from near twenty Ladies and Gentlemen, and the Colonel usually invited every person who came to the Mount to see Lord Pigot, to dine or sup with him; he gave several entertainments on his Lordship's account, and always avoided asking any person that might possibly have been disagreeable to him, though there were many of his own particular friends in that predicament.

There was so little appearance of Lord Pigot's being any way disrespectful treated, that on the contrary the Mount became the
gayest

gayest place on the coast, and on Christmas and Newyear's-day, as well as on Twelfth-night, the balls given by Messrs. Monckton, Ruffel, and Stone, were uncommonly splendid; the Board even coincided in this respect with their wishes, and made Colonel Horne a handsome allowance to defray the extraordinary expences that his Lordship's residence occasioned; but these being considerably lessened by Lord Pigot's insisting on shortening the table, constantly before provided, whether there was company or not, it became more than sufficient, and the Colonel not wishing to benefit himself by his Lordship's restraint, thought it reasonable that the surplus of that money, which had been granted for his entertainment, should be spent in his Lordship's amusement; and accordingly, as he was fond of amusing himself in building, he adopted a plan of his for a bath, and at his instance, upon a much more extensive scale than he had intended.—Lord Pigot having drawn this plan himself, seemed particularly desirous of having it built; and when it was undertaken he frequently gave as close attention to it as any of the workmen; thus, in an occupation of his own choice, and in putting the garden in order, an amusement that he also much delighted in, did he employ those moments that were not spent in the company of his family or friends.

This, Gentlemen, was the nature and degree of the restraint we laid Lord Pigot under; we will not attempt to expatiate on it, but leave to your own understandings to determine whether it was such as evinced premeditated malice, or personal ill-will to his Lordship; but it remains to shew our reasons for continuing him under this restraint.

The Act of Parliament for establishing certain regulations for the better management of the Company's affairs, as well here as in Europe, appoints a Governor General and Council at Calcutta, with a controuling power over all the presidencies in India.

To this controuling power we addressed ourselves upon the public danger, which impended over this settlement, from the conduct of Lord Pigot, and the other Gentlemen of the Minority, who maintained that the executive powers of government were not lodged in a Majority of the Members of the Board, unless the President was of the number, and that his personal assent was absolutely necessary to constitute every act of government.

We addressed this letter to the Governor-general and Council, with a particular detail of our grievances, the day before the general suspension of all the Members of the Majority, and consequently could not have mentioned the necessity we were driven to by that measure, to arrest the person of Lord Pigot, but that in a few days his Lordship did himself.

The answer received from that Board was clear and explicit; the intemperate conduct of Lord Pigot in forcibly excluding two of our Members from their seats in Council, and the unexampled means by which he had endeavoured to usurp the power of government, and by attempting to procure a majority in Council by violence, were reprobated and condemned, whilst our Government was acknowledged, and our measures approved.

Could we have had a doubt of the propriety of our conduct, it was now removed by the pointed and unanimous approbation of that very Board, vested by the British legislature with the most extensive powers ever granted to any set of men in India, and whose supreme controul extends to every instance where the interest of the Company or the peace and tranquillity of their settlements are any way concerned.

Did we need further authority, we had the sense of the Directors themselves, who, by their General Letter to Bengal of the first of February 1776, direct, That the orders of the majority be implicitly obeyed, in the same manner to all intents and purposes as though they had been authorized and signed by all the Members of the Council.

We were not, however, so elated with this approbation as to permit the slightest disrespect or inattention towards Lord Pigot; on the contrary, we repeated our injunctions to Colonel Horne, to treat him with every respect and attention suitable to his rank in society, and to the station he had occupied in the Company's service: we would indeed have gone further, and taken off all restraint, had not his own turbulent disposition, and the violence of his friends, put it entirely out of our power.

To so great a length was this carried, that even after our government was acknowledged by the Governor-general and Council, he never mentioned Fort St. George by any other appellation than
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that of *his Fort*, nor favoured us with other epithets than those of *traitors, villains, and usurpers*.

This however would not have induced us to continue him under restraint; we should have regarded it with that degree of contempt which such language merits, and have thought ourselves culpable in treating it with a serious attention, but we were under continual anxiety from the daily attempts of both him and his friends, to spread confusion and disorders throughout every department of government.

The dangerous conduct pursued by his Lordship to obstruct the course of justice, and thereby to introduce every species of violence and disorder, that could arise from the want of those legal restraints which are instituted for the defence of our lives and properties, naturally alarmed us.

In proof of this we observe, That having occasion to fill up the vacancy of an Alderman in the Mayor's Court, his Lordship addressed a letter to the Mayor, representing that our government was illegal, and warning him against the consequence of receiving any Alderman of our appointment.

This happened a few days before the time fixed by our charter for electing a new Mayor, previous to which it directs, that all vacancies shall be filled up; and had the majority of the Gentlemen who composed the Corporation, been so far influenced by the letter from his Lordship, as to refuse accepting the Alderman whom we had appointed, the election of a new Mayor could not have been made agreeable to the charter, and the powers of the Court must have ceased until some remedy could have been applied from home.

An attempt of the same kind was made by his Lordship, to impede the administration of justice in the Criminal Courts, by a letter which he addressed to Commodore Sir Edward Hughes, in his public character, and of course publicly known in the settlement, representing us as persons not legally qualified to hold Quarter Sessions, or to administer justice in any shape whatsoever.

When his Lordship saw that we were possessed of the powers of Government, had he been interested in the welfare of the Company, or of the Public, instead of pursuing a conduct so very repugnant to

it, he would have endeavoured, as much as possible, to conciliate the minds of the inhabitants, and to keep even those who were attached to him in proper obedience and submission; for as the Governor-general and Council at Bengal had acknowledged our Government, and declared their resolution to support it in the strongest terms, he must have been sensible that no effort on his part could meliorate his situation, nor answer any other purpose than to injure and embarrass the affairs of the Company. Had he been single in these attempts to subvert the peace and happiness of the community, we should have had little to apprehend from them; but many of the Company's servants and others of the inhabitants were warm in his behalf, and distinguished themselves in opposition to our Government. Anonymous papers were circulated and published in all the out-garrisons and subordinate settlements, with an intention of exciting mutiny amongst the troops, and of keeping up that spirit of party and opposition to our Government, which, had they been faithful servants of the Company, they would have wished to extinguish.

His Lordship hoping for support from the Governor and Council of Bengal, had solicited an exertion of their controuling power; but when he found that his conduct had been highly condemned by them as arbitrary and unconstitutional; when he found that our measures were approved of, and our government supported, he treated with derision and contempt that controuling power, whose superintendency he had so lately acknowledged, by his solicitation to interpose their authority in his favour; he even treated the orders of the Company itself, communicated to him by the Governor-general and Council, in the same indecent and undutiful manner; he still asserted his rights to the Presidency, declaring, that ours was a Government of usurpation, and that he and the Members we had suspended were the legal representatives of the Company.

These reasons are sufficient, we should imagine, to point out the expediency of not taking off the arrest; but they were strengthened by many others, we had reason to believe, which were, that every effort had been used to sow disaffection in the minds of the Rajah of Tanjore, and of many of the Nabob's collectors and managers, not only to our government, but also towards that of his Highness, a circumstance which might have involved the affairs of the coast in the greatest confusion and disorder.

We

We were possessed too of intercepted letters and intelligence, from which we understood, that a constant correspondence was kept up between him and the Rajah; and that his Lordship, by his Dubash Moodee Kistnah, and other emissaries, was using his utmost endeavours to make him believe that he was not to pay the least attention to us, but look up to him for support. The Dobbeer, who was the chief officer of the revenue at Tanjore, was disgraced by his intrigues, and many persons, disaffected to our government, appointed to the management of that department. We had not only intelligence of this, but also that a correspondence subsisted between his Lordship and Hyder Ally.

When under restraint he pursued such measures, what had we not to dread should he be set at liberty? His conduct to his Highness the Nabob, the friend and ally of the crown of Great Britain, before his arrest, by disposing of his territories, and threatening to treat him as a prisoner, was disrespectful, indecent, and oppressive; and the anonymous papers circulated after it, struck at the honour of his family, and tended to alienate their affections from the Company. So early as the 23d of February 1776, he had drawn out a paper, containing the amount of the orders his Highness had given upon the Tanjore country, with directions to his Amuldars and other officers to relinquish all manner of authority, and to account with such persons as his Lordship shall nominate, for all the sums of money collected from the 9th of that month. This paper his Lordship sent to the Nabob by his two sons, and Mr. Chambers the Persian translator, with a message that he would lay it before the Board, and that if his Highness did not consent to whatever it contained, he would put it in execution by force.

This extraordinary paper was written in his Lordship's own hand, and contained a formal renunciation from his Highness of all rights to the Tanjore country, as well as an entire acquiescence in every measure his Lordship might think proper to recommend; it was in every respect repugnant to the Nabob's invariable and uniform claims on that country, and his Highness expressed his surprise and dissatisfaction at it in a public letter, the 27th of that month, addressed to his Lordship and the Council; but this letter he never thought proper to lay before the Board, and we shall remark here, that in this, as well as in the other parts of his unconstitutional and oppressive conduct towards the Nabob, his Lordship acted entirely without our knowledge or consent.

We

We are sensible that this transaction, having passed long before Lord Pigot's arrest, we cannot offer it as a reason for continuing him under restraint; but when we repeat, that we had every reason to imagine that he continued his intrigues with the Rajah, even after the condemnation of his conduct by the Governor-general and Council, and as we were informed by his Highness the Nabob, that he kept up a constant correspondence with him and Hyder Ally; when we say, that in the authority of the Supreme Council, he set that of Parliament at defiance; when he still talked of *his Fort*, and treated our Government as an usurpation, no unprejudiced man, who knew the violence of his disposition, will say, that a continuation of the arrest was unnecessary; on the contrary, his harangue to the soldiers at the Mount, and the efforts he made use of to obstruct the course of justice, of themselves point out what he was capable of doing, had he been freed from every restraint.

We shall here request permission to mention two circumstances, which have occasioned much noise; the Black Horse posted at the Mount, and the consultation about sending Lord Pigot to England.

Almost immediately after his Lordship's arrest, we applied to the Nabob for a few horse, to have on all occasions the most speedy intelligence from Colonel Horne; their number was but twelve, and they remained there till the 15th of October, when they were ordered away at his Lordship's desire. Lord Pigot had read our Letter to Colonel Horne, the day they were first posted at the Mount, as had also many of his Lordship's friends, and seen by that, they were sent there for no other purpose; yet it has been industriously propagated, to poison the minds of the Public, that his Lordship was guarded by the Nabob's horse, and he himself was disingenuous enough to write to Sir Edward Hughes, complaining of it; but what is very extraordinary, at the very time Lord Pigot made this charge so injurious to the Nabob, who had generously pardoned the injuries and insults he had received from him, his Lordship's family lived in the Nabob's house, and Mr. Monckton's table was supplied with fruits and vegetables from the Nabob's garden; besides our letters of the 25th of August and 15th of October are on record, and evidence at the same time the falsity of the charge, and the real service they were intended for.

The reasons given in Consultation for sending his Lordship to Europe, were the same that we have already stated, for continuing him
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him under arrest; the attempt of Mr. Russell to put the main-guard under arms, his Lordship's harangue to the soldiers at the Mount, his efforts to stop the common course of justice, the seditious papers he had published and circulated as well in the Fort as in all the out-garrisons and subordinate settlements, his contempt of the authority of the Governor-general and Council of Bengal, his continual claims to the Presidency, notwithstanding their decision, his intrigues with the Rajah of Tanjore, and correspondence with Hyder Ally, as already set forth; these, added to our just apprehensions for the interests of the Company, the property of individuals, and the peace of the Carnatic, should he take a dishonourable advantage of the liberty he enjoyed at the Mount, and put himself at the head of his adherents, were the reasons for taking that measure into consideration; but on the other hand, our wishes to execute the trust reposed in us by the Honourable Company, and to maintain our right to the Government, with the least inconvenience to his Lordship, together with the great confidence we had in the fidelity and circumspection of Colonel Horne, and a thorough recollection of his Lordship's former services to the Company, were the grounds of our resolution not to adopt that measure.

Thus far, Gentlemen, we have acquainted you with the causes of his Lordship's arrest, the necessity of continuing it, and the very respectful and attentive manner in which he was treated at the Mount; at present it is necessary we should lay before you the circumstances of his Lordship's death.

It must be in the recollection of almost every person here, that the month of February last was remarkably hot. During this month Lord Pigot mostly employed himself in the garden, where Mr. Monckton lived. He was generally with the gardeners as soon as breakfast was over, and remained with them until dinner; sometimes he kept Colonel Horne's family waiting for him until two o'clock, and often, without lying down in the forenoon, returned to them immediately after dinner. The heat of the sun was so intense, that the officers accompanying his Lordship could not stand it, but were frequently obliged to leave him, and take shelter within doors. This imprudence occasioned a bilious complaint, brought on somewhat sooner perhaps by eating remarkably hearty of a turtle at Mr. Monckton's the Sunday before his illness; a circumstance that was taken notice of by several persons at table, particularly Dr. Mallet, who foretold that his Lordship would have a fit of sickness, if he

continued

continued to act with so little circumspection. It was the more observable, as his Lordship was in general an exceeding moderate man, and seldom himself eat of rich dishes, though fond of giving directions how to prepare them, and of helping others at table. Miss Pigot, as well as Mr. Monckton, mentioned their surprise to Mrs. Horne and Miss Salmon, at his Lordship's having eat so heartily, and Miss Pigot expressed some apprehensions lest it should not agree with him.

On Wednesday the 5th of March his Lordship appeared to be indisposed; he did not however give way to his complaint, but walked about as usual that day and the next. Colonel Horne perceiving his indisposition recommended his sending for Doctor Pasley, but this his Lordship declined; he imagined his illness was too trifling to need the assistance of a doctor, and prescribed something for himself, which was made up by Mr. Mallet. On Friday his Lordship seemed to be worse, yet he still continued to go out as before. Colonel Horne advised Mr. Monckton to send for Dr. Pasley, but was answered, that his Lordship thought there was no occasion. The Town Major was, however, that day to pay a visit at the Mount, and on his going away, Colonel Horne desired him to inform Mr. Stratton that night, if possible, that Lord Pigot appeared to him very much indisposed, and that he wished Mr. Pasley might be sent out. The Town Major delivered this message to Mr. Stratton, who immediately sent for the doctor, and directed him to see Lord Pigot, and to take every possible care of his Lordship.

On Sunday morning early Doctor Pasley went to the Mount, and after he had been some time with his Lordship, expressed his surprise that he had not been sent for sooner. He said his Lordship's complaint had been permitted to gain ground; he found him in a very alarming state, his entire system being agitated with putrid bile, and accordingly lost no time in administering the proper remedies. In proportion as those putrid oppressive complaints abated, he became sensible of pain and tenderness in the region of the liver, and in the right shoulder; but repeated evacuations, with refreshing drinks, and some other medicines, restored him, in all appearance, to a perfect state of health; yet Doctor Pasley informed him, that all such disorders as he had laboured under, originated in the liver, and that a certain course of medicine, with every precaution in diet and exercise, was absolutely necessary to prevent a relapse, which, he said, may be occasioned by indigestion and diseased secretions.

His Lordship, however, could not be persuaded that they were in any respect necessary, particularly as his spirits were in their usual tone, and as he had not the least sensation of disease about him. He, indeed, declared in a letter to Sir Edward Hughes, that he was as well as any man in India, and so far relied upon the natural excellence of his constitution, that he exposed himself again to the excessive heats of the sun, and followed his amusements and occupations in the garden as before.

But in about a fortnight he became sensible how very imprudent he had been in not listening to the advice he had received, his appetite failed him, his sleep grew disturbed, he became heavy and feverish, and the whole scene of illness was renewed without having strength sufficient to support a second attack.

Colonel Horne took every precaution, as well in his Lordship's first illness as in this, to prevent his being any way disturbed. The house was kept as silent as possible, no drums were allowed to beat at mounting guard, or on any other occasion; centinels were placed to oblige all carriages going past to make a large circuit, and those coming to the house to stop at a certain distance: every possible care was taken of his Lordship, and when his physician recommended the sea-air, we so earnestly desired the re-establishment of his Lordship's health, that we cheerfully gave up the Company's Garden-house as the most likely situation to contribute to it. We should indeed have been sincerely happy in his recovery, for we acted from a principle of duty to the Company, whose interests he had unhappily lost sight of, and not from one of personal animosity to his Lordship.

On his quitting the Mount, his Lordship shook Colonel Horne most affectionally by the hand, expressed his warmest thanks to the ladies of his family, to whom he considered himself as under the highest obligations, and intended to reward the soldiers with a shirt a-piece for their good behaviour, and the attention they had shewn him.

The same precautions that were used to prevent noise or disturbance at the Mount were also taken at the Company's Gardens; no drums were permitted to be beat at practice or otherwise on the Island, or any where near the house, that could in the least disturb his Lordship; no carriages or palanquins were suffered to enter the court-

yard, nor any person allowed to go in at any other gate than that next the Fort; centinels were posted on the St. Thome and Chepauk roads at the particular request of his Lordship's servants, to prevent noise from the passengers; and the serjeant of the guard was ordered to comply with any desire that his Lordship's friends or servants may make for his quiet and repose.

In the course of three or four days after his Lordship removed to the Garden-house, he was somewhat better; but violent exertions, and exposing himself to cold and fatigue, threw him back, and brought on severe shiverings, after which he gradually declined until the 11th of May, when he died of a slow visceral fever, partial suppurations in the substance of his liver, and putrid bile.

Having thus related all the circumstances to the death of Lord Pigot, which we imagined requisite to prove the rectitude and necessity of our measures, as also the nature and cause of his disorder, we shall request the indulgence of the Court to make some few observations on the whole.

Before Lord Pigot had received an answer from the Governor-general and Council to the letter he had written to them, he acknowledged their authority in its utmost latitude, yet he denied it as soon as they had refused to support his measures; he denied it so soon as they had declared that the rights and powers of the Governor and Council of all the Company's presidencies were vested by their original constitution, in the Majority of the Board, and that the violence of his Lordship, in excluding two of the Members of the Council from their seats, was a violation of that Constitution. He disallowed their authority, when they declared that the measures taken by us to recover the actual Government, which of right was vested in us, arose from the necessity of the case; and that they should acknowledge and support the title and authority which we consequently possessed; but it has been asserted in favour of his Lordship, that this controuling power in the Governor-general and Council of Bengal does not extend to any other settlement, except in case of war and peace. If, however, gentlemen would allow themselves leisure to peruse the Act of Parliament, they would perceive that it extends to every instance where the Government, Revenues, or Interest of the Company is any way concerned. Why else should the several presidencies of Madras, Bombay, and Ben-
coolen be directed and required " to transmit constantly and diligently
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"to them advice and intelligence of all transactions and matters whatsoever relative thereto;" if the legislature did not mean to give that Board a power so extensive why establish it, *"to prevent the various abuses which had prevailed in the government and administration of the Company's affairs in India."*

It has been asserted, that no Act of the Majority could be valid, unless the President was of the number, yet all societies (says Grotius, p. 204) "have this in common to them, that in matters for which each association was instituted, the whole body, or the major part in the name of the whole body, oblige all and every the particular members of the society; for certainly it is to be presumed that these who enter into a society are willing there should be some method fixed of deciding affairs, but it is altogether unreasonable that a greater number should be governed by a less; and therefore, though there were no contracts or laws that regulate the manner of determining affairs, the majority would naturally have the authority and right of the whole." This is the law of Nature, Gentlemen, founded in upright and unbiassed reason, and declared by that excellent author, not for the partial benefit of any particular state, but for the general guidance of mankind.

This we should imagine sufficient to prove, that all the authority of government was placed in our hands; yet we will further observe to you, that by the spirit of the laws of England, the sense of the majority in every public assembly is final and decisive; that Lord Pigot thought so, is evident, from the outrage he committed to obtain it. The two Houses of Parliament, the Privy-Council, and all the Courts of judicature, determine by the opinion of the greatest number of members; and conforming to this principle of the constitution, the Company have invariably, since their first establishment in India, directed the members of their several Councils, to be determined in every point, where there should be a difference of opinion, by the sentiments of the majority; to attempt to act contrary to this principle in Europe, would be to attempt a subversion of the constitution, and to do it here, is to expose the Company to a forfeiture of their charter. Yet Lord Pigot was guilty of this, both by refusing to put a question agreeable to the sense of a majority of the Board, and by suspending seven of the members by a junto of four.

It is a maxim in the laws of England, that no man shall be either judge or witness in any cause where he is himself plaintiff or defendant; yet in this instance too, his Lordship acted directly contrary to the laws and constitution of his country, and in defiance of both, sat and voted as a judge in the case of Mr. Stratton and Mr. Brooke, where he was himself the accuser.

We, however, showed no other resentment than to assert the rights of the majority, and to protest before a notary public, against the violent and illegal proceedings of his Lordship; but the consequence of our untimely temperance was, that he and the few members who were influenced by him, suspended four more of the majority. His Lordship repeating the same illegal act, and sitting and voting as judge in his own cause; Sir Robert Fletcher, the Commander in Chief, another member of the majority, he ordered in arrest, and to be brought to a general court martial as guilty, in signing the protest, of mutiny and sedition. In a milder government than his Lordship's, a man was hung by military authority, for a less offence, without a trial; what then had the Commander in Chief to apprehend under the government of a person of Lord Pigot's violent and despotical disposition, who was at that time, as Governor of the fort, vested with similar powers.

We were all in the same predicament with Sir Robert Fletcher; and if asserting the rights of the majority of Council, by protesting against Lord Pigot and his associates, was causing mutiny and sedition; we were all involved in the same guilt with him, consequently all liable to the same punishment, and therefore reduced to the necessity of exerting the common rights of mankind, by putting our lives in safety at the expence of his Lordship's liberty.

It is however asserted, that his Lordship's arrest was contrary to law; but we beg leave to combat this assertion, and to rely upon it; that it was not only lawful but necessary. His Lordship was arrested more in his military capacity of Governor of the fort, than in his civil one as President of the Council; as a civil servant of the Company, we had but little reason to be apprehensive; it was his military authority, as commander of the troops in garrison, that rendered him dangerous, and his arrest consequently lawful; for if there was no power in the majority of the Council, to check the ambition of a military governor of the fort, and to imprison him,

if necessary, he may forget both his duty to the Company, and his allegiance to the King, and usurp an authority independent of either; besides, we must observe, that it is laid down by the author of the Principles of Penal Law, "*That every wanton, causeless, or unnecessary exertion of authority, is unjustifiable and tyrannical.*" If then a wanton exertion of lawful authority (for he means no other) be tyrannical, what term shall we give to the wanton exertion of an usurped authority, and what means to oppose it can be deemed unjustifiable. Every British subject, in the least acquainted with the history of his country, knows, that it is the spirit of the constitution to resist and overset usurpation, and that the laws allow every individual to exercise, in that case, an authority which they before denied him; many proofs of this have been felt by our very kings, and should we, in whose hands the real powers of government here were placed, have let it pass unnoticed in Lord Pigot.

The Gentlemen who have thought proper to institute this prosecution against us, have quoted Mr De Lolme's Treatise on the Constitution of England, to endeavour to prove the arrest of Lord Pigot illegal; and we shall from the same book, and the same chapter, endeavour to demonstrate, that it was justifiable and agreeable to a principle inherent in the constitution, we mean that of resistance. In the twenty-first chapter then of this book, he says, that all the prerogatives of the people, taken in themselves, are but weak arms to oppose the real force of those who govern; all these precautions that our ancestors have taken, all those reciprocal rights they have established, suppose every thing to remain in that legal constitutional situation where they had placed them; but should the prince suddenly free himself from every controul, should he set himself above the constitution, in what lies the resource of the people? He tells you, that it lies in resistance, which the laws of England have decided to be lawful and final, against the violence of power; it was this resistance that gave birth to Magna Charta, the basis of our liberty, and at forty different periods procured its confirmation. It was to this resistance King William owed his crown, and to it also are the present royal family indebted for their elevation to the throne. This right of resistance and of opposition to violence, under whatever form it appears, and from whatsoever quarter it proceeds, is so well known, so universally acknowledged, that even the courts of justice themselves have been guided by it in their decisions; witness the case of the Constable, which these Gentlemen have quoted in their protest, and by that, not only acknowledged but proved the existence

existence of the principle we contend for. The constitutional right of resistance being then established without a possibility of doubt, we say, that the law must have established modes to give it action, or have left it to the discretion of those who are oppressed. But, as our laws know no opposition, so they prescribe no particular mode of resistance,—violence and oppression overleap the bounds of constitutional power, and must be met on their own ground, and fought with their own weapons. Yet we humbly conceive, we have not only not exceeded in any one act, the discretionary power that both law and nature placed in our hands, but used a degree of lenity and mildness to Lord Pigot, that his conduct towards us gave him very little reason to expect, or indeed to hope for.

The proper administration of the Company's affairs, the rights of the Council, and our personal safety, demanded our putting his Lordship under arrest; in a case of such extreme necessity, we were warranted to do it as individuals, and by a much stronger reason, when we united our judicial and political authorities, and acted in a public capacity.

It has been complained of, that his Lordship was arrested on the high road; but will any person attempt to assert, that it would have been more prudent to arrest him in the fort, and have by that means given an inlet to riot and bloodshed. We have been accused too of impropriety, in calling the military to our aid, though that was our only means to prevent confusion and public disturbance. General Stuart is involved in the same charge with us, for having obeyed the civil power; as are also Colonel Eidingtoun, Colonel Horne, and Captain Lysaght, for having obeyed their commanding officer; but the Gentlemen who have shewn so much ingenuity in composing the Informations, and framing the accusation against us, do not seem to have been acquainted with these articles of war, which have been established by parliament for the regulation of the army, nor to have formed any perfect idea of the nature of the military discipline.

By the articles of war, General Stuart was obliged to act as well in obedience to the orders of the then Commander in Chief, as in aid and support of the civil power; and the other Gentlemen, under a necessity of paying him an implicit obedience; for were it permitted to them, to dispute the propriety or legality of the orders of their superior officer, the officers and soldiers under them, even to

the very drummers, would have the same right; and how far such a permission would be subversive of all military discipline and authority, is too obvious to need a comment.

Infinite pains have been taken to prove a reciprocal influence between the mental and corporeal faculties. It has been laid down as a maxim in the animal oeconomy, that if any subject of a dangerous nature takes possession of the mind, it may in some degree obstruct the functions of the body; and having established this hypothesis it has been concluded, that as we deprived Lord Pigot of the government, kept him under arrest, attempted to send him to Chingleput, and had it under consideration to send him to England, that we gave rise to disagreeable sensations, which, they say, produced the disorder in his Lordship's liver, and the putrid bile of which he died. But we beg leave to observe, that from the moment of his arrest, to the turtle-feast at Mr. Monckton's, his Lordship enjoyed a perfect state of health; that his disorders were peculiar to this climate, and are generally occasioned by indigestions, or by frequently being too much exposed to the excessive heat of the sun. We shall also remark to you, that, previous to his Lordship's illness, and for some time after, Fahrenheit's thermometer was at 95, 96, and 97 degrees in the shade.

Were it permitted us to recriminate, we would say, that the friends of Lord Pigot, who think proper to charge his death upon us, were, with a greater degree of probability, guilty of it themselves, if, as they insinuate, the affections of the mind have sometimes a mortal influence on the body; for we assert, that they never left his mind at ease, but kept him in continual alarms of schemes to tear him from Colonel Horne, which he looked upon as his asylum, of bodies of cavalry, and battalions of sepoy, constantly in motion; of plans to seize upon his person, to bind him with ropes and send him to Gingee, or on board ship, in the most ignominious manner: in short, we assert, that they took such pains to tease and torment him with informations of violence and unworthy measures, which never had existence but in the great fertility of their own imaginations, that one would be led to think they wished to sacrifice his life to have the satisfaction of accusing us of his murder.

A charge of homicide has not been thought sufficient, and we are accordingly indicted for wilful and malicious murder; but we are at a loss to conceive what the proof of our felonious intention, or premeditated

meditated malice, can possibly be. Lord Pigot had the range of the whole country, was treated with every mark of attention and respect, had every military honour paid him, and enjoyed every convenience that the house he preferred to all others in India could afford. These, we humbly apprehend, are not proofs of a malevolent disposition. Had we had any intention to take away his Lordship's life, could fortune have thrown a more favourable opportunity in our way than when he resisted our orders to remove him to Chingleput? Were we capable of entertaining so horrid an idea, we might have executed it then, and sheltered ourselves under the law; for we will remark to you, that we were not only Members of the Government, but also Justices of the Peace, and our lenity on that occasion, surely demonstrates, that we chose rather to let pass with impunity a resistance to our orders on the part of Lord Pigot, and a disobedience on that of Colonel Horne and Colonel Eidingtoun, than that his Lordship should suffer the least personal violence; and what can more evince at least the same degree of attention and respect in these gentlemen, than their risking, upon a mere surmise of our intention, both their commissions and their lives on this occasion, by disobedience to a positive order from their superiors in his Lordship's favour, notwithstanding an evident attempt to rescue him?

But supposing the mind and body to have their reciprocal influence on each other, and that the loss of the Government, the arrest, his Lordship's restraint from entering the Fort, his disappointment in the decision of the Governor-general and Council of Bengal, and what, perhaps, occasioned more disagreeable sensations than all the others, his seeing us in power: supposing all this to be true, yet we humbly submit it to you, that as no marks of violence appeared upon the inspection of his body, we are not guilty in the eye of the law of either murder or manslaughter; and that this is law, we beg leave to refer you to the first volume of Lord Chief Justice Hale's History of the Pleas of the Crown, where he says, in page 429, "If a man, either by working upon the fancy of another, or possibly by harsh or unkind usage, put him into such a passion of grief or fear, that he either dies suddenly, or contracts some disease of which he dies, although it may be murder or manslaughter in the sight of God, yet, in a human judicature, it cannot come under the judgment of felony, because no external act of violence was offered, of which the common law can take notice:" and thus, Gentlemen, not guilty of murder or manslaughter in the sight of man, we are firmly persuaded that we have not erred against any precept

precept of the divine law, or any principle of morality. Lord Pigot fell a victim to his own imprudence, and informed Dr. Anderson, in his last illness, that he thought he could tell the day that gave rise to his disorder, nay, the very hour; that he had been that day at work in the garden till very late, had exposed himself to the excessive heat of the sun, and returning to Mr. Monckton's in a violent perspiration, had taken a large draught of cold punch; to this Lord Pigot imputed his disorder, and not to us. Thus then acquitted by himself, and upon his death-bed, has not the present charge against us more the air of premeditated malice, than any we ever discovered against him?

To form axioms founded on conjecture, and to deduce unfair and disingenuous consequences from them, in order to cover us with an opprobrium of the most horrid nature, has it not the appearance of a more felonious intention to strike at our lives than we ever shewed to attempt that of Lord Pigot? we humbly submit it to you, that it demonstrates a premeditated, malicious, and felonious intention to murder us in the basest manner, that is, under the colour of justice. Were Lord Pigot really murdered, his memory is free from the imputation of such an atrocious crime; but his friends, who wish thus to sacrifice us to his manes, discover, upon this occasion, a manifest desire, not only to commit, with impunity, the very crime they charge us with, but at the same time betray an inclination to throw a shade of infamy on our graves.

We shall here conclude, Gentlemen, and we are sorry to have taken up so much of your time, but we thought it necessary to lay before you the circumstances that gave rise to the arrest of Lord Pigot, with our reasons for continuing it; and we shall here remind you, that his Lordship's outrage in suspending Messrs. Stratton and Brooke, was the cause only of our public protest; but his conduct towards the Commander in Chief, in ordering him to be tried by martial law for complaining with us in his civil capacity of the violation of the rights of the Council, his expulsion of the entire majority of the Board, our personal safety, his repeated acts of despotism, his imposing a renunciation on his Highness of all his claims to the Tanjore country, and threatening to put it in execution whether he consented or not; his personal insult to the Ally of the Crown of Great Britain, his declaration to treat him as a prisoner and to place a guard of Europeans at his house: these circumstances, so repugnant to the true interest of the Company, and to the faith and ho-

pour of the nation, must naturally point out the impropriety of leaving the powers of Government in the hands of a man who could be controuled neither by principles of justice nor of decency, who was capable of the greatest acts of violence, and who neither consulted the peace of the Carnatic, nor the welfare of his honourable employers; and we trust that there is no unprejudiced man who hears us, that is not convinced within his own breast of the necessity of the arrest; and at the same time, that we are not only free from having in the least contributed to hasten his Lordship's death, but that in consideration of the great services he rendered the Company during the last war, our conduct towards him was as mild and gentle as the convulsive situation of affairs would admit of: and we here cannot but deplore the cruel necessity his Lordship's pretended friends have imposed upon us by this shameful prosecution, to discuss thus freely his public and political character. Though he was our enemy and oppressor, our resentment does not follow him to the tomb; and we should be much better pleased if this trial gave us an opportunity of dwelling on his virtues than his faults.

* This Defence of General STUART is to be found in page 231 of the Collection referred to in the title-page, preceded by this explanatory Note.

" It appears by Brigadier-General Stuart's Petition to
 " the Justices, dated 19th November 1777 (Page 188 of
 " the preceding Collection), that he considered himself, and
 " the Officers who acted by his Order, in a different Pre-
 " dicament from the Gentlemen of the Council. He there-
 " fore thought it necessary to make a SEPARATE DEFENCE
 " for himself and those Officers; which after he had drawn
 " up and signed, he was prevented from giving in, by the
 " Proceedings of the Inquest being quashed. The following
 " is a Copy of that Defence, the Original of which, signed
 " by Brigadier-General Stuart at Madras, is in the Hands
 " of the Printer."

D E F E N C E

O F

*Brigadier-General JAMES STUART, for himself and for
 the Military under his Command.*

Gentlemen of the Jury,

TO my utter astonishment, I appear before you, charged, in the first instance, by a number of men (whose names are to the paper † now in my hand) with the most heinous and atrocious crime that human nature is capable of, viz. the concerted, predetermined, malicious, and intentional act of murder, for such I conceive to be the meaning of the words *Wilful Murder*; of which greatest of all crimes those persons have taken upon themselves to charge me, and the other Gentlemen of the army there mentioned, who with myself,

† The Inquest.

in respect to the act of arresting the late Lord Pigot, did no more than our duty, in obedience to the orders of our superiors both civil and military, according to every established idea of legal government within this Presidency, and according to the words and spirit of our respective commissions, and to the rules and discipline of war, the whole comprehended under our solemn oath of fidelity to the Honourable Company.

I therefore say, for myself, and if I am allowed to make the defence of all the army who acted by my orders, I likewise add for them, that neither I nor they, together or separately, are Guilty of the crime charged, viz. the *Wilful Murder* of the late Lord Pigot.

I produce the original order by which I acted, and by virtue of which I gave orders to all the military thus under my command. It is in the hand-writing of one of the Gentlemen whose names are to the paper; they are in number seven; and I know most certainly, that they formed a *majority* of the whole Council. This paper I saw wrote and signed, and received it in person from the Gentlemen.

Sir Robert Fletcher, whose name is to this paper, was at the time Commander in Chief of the Army; whose separate order to me, according to the rules and discipline of war, as my superior, in the very terms of my commission herewith produced, would of itself have been binding and obligatory on me; and he the Commander in Chief being himself of Council, together with the other Gentlemen all of Council (therefore the only persons responsible), he or they were at liberty to give or to refuse me any explanation of their orders, according as they thought proper. My duty was to obey him (Sir Robert Fletcher) the Commander in Chief, according to the express words of my commission; and I thought it, if possible, more my duty to obey the joint orders of a *clear majority* of Council.

I say, that the majority who gave me powers and orders were at liberty to decline entering into the particular motives of their conduct, if they had so chosen. But they did not refuse me any information; and they thought proper to publish to the army, as well as to the whole settlement, the reasons of their secession; as appears by the papers on record, and particularly by the circulation of the letter by a Notary Public. This was a sort of appeal to the
unbi-

unbiaſſed judgment of the Settlement, as to what was or was not the legal government, or conſtitutional mode of managing the affairs civil, military, political and commercial of the Honourable Company, within the limits of this Preſidency.

As for my own part, without heſitation, I then believed, and even now, after all that has paſſed, I remain ſtill of that belief, that the acts of the *majority* of Council are alone binding in civil, military, political, and commercial affairs; and that whatever orders they iſſue to me, either as a majority of Council, directed to me in particular, or to the Commander in Chief, for him to communicate to me; or from the Commander in Chief of himſelf to me, as my ſuperior officer; I was then, by every reaſon of duty, and by my oath of fidelity, and by virtue of my commiſſion, as a military ſubordinate officer, bound to obey; the reſponſibility as well as the truſt being with him, and them, the majority of Council, the execution of their orders alone left with me. I obeyed accordingly, and in the manner ſet forth in my narrative upon record; which, though compoſed in haſte, is in every eſſential part exact.

The mode in which I executed the orders and inſtructions of the majority, did afterwards meet with their approbation, as appears from all the ſubſequent publications on their part, where that matter is touched upon.

And here I cannot help expreſſing my aſtoniſhment, that this heavy charge of *Wilful Murder* ſhould be brought againſt me, who in the manner of arreſting the late Lord Pigot, the evening of the 24th of Auguſt, ſhewed ſuch particular attention to prevent the ſmalleſt chance of any danger to his own perſon, or to that of any of his friends. The *management* on that occaſion (if it may be called ſo) aroſe from humanity and tenderneſs; otherwiſe there needed none: the whole was prepared, and at my orders. That *management* has been branded with every odious and infamous epithet, and *false aſſertions* have been made, to give colour to the ſcandal.—This digreſſion I hope you will excuſe on my part, who on this occaſion feel my honour equally as my life attacked; both which, however, I am at all times prepared to defend as becometh. I ſhall only add here, in regard to the act itſelf (without the review of ſubſequent occurrences), that after cool recollection of all circumſtances that preceded, accompanied, and immediately followed the arreſt of the late Lord Pigot, I now feel the greateſt ſatisfaction for the

the part I took as the instrument of Government ; and I almost defy the mind of man to have devised any other way, in similar circumstances, to have effected it without danger of bloodshed.

And here, notwithstanding the epithets given to these proceedings, I appeal to the memory of every man here living, and to the annals of history, to shew a similar instance of regularity and good order ; for after the act of arresting Lord Pigot, to the minute of resigning the government into the hands of Mr. Whitehill, there has not been any act of violence ; and no man, so far as I know, has been imprisoned, or injured in his person or property, on account of irregularity.

This is demonstration, that there was neither anarchy nor confusion in the settlement (as has been falsely reported), and that the minds of men were prepared for the event, and satisfied with the necessity of the measure. It furnishes, moreover, the clearest proofs of the good discipline of the army, who, from the necessity of the case, were the instruments in the hands of the then Government to assert the rights of the *majority of Council*.

To return to my defence against this heavy charge : After shewing you the orders and instructions by which I, as a military subordinate officer, then acted, and that part of my separate commission as Colonel, according to which I took the oath of fidelity to the Honourable Company ; I shall now endeavour to shew, that the words *Governor and Council*, inserted in the body of that commission, can only mean the *majority of Council* ; and I venture to say, that no man who did not delight in quibble, rather than plain sense, or plain inference, ever yet doubted the truth of this proposition.

Here, however, I beg leave to observe, that in respect to myself, and to the officers or others of the army who obeyed my orders on the occasion, the proving that the *majority* really has the powers of the Governor and Council, in spite of the Governor himself ; I say, that as to the military subordinate officers, this proof is not necessary, because in our commissions, after the words "*And you are at all times to observe and follow all such orders and directions as you shall receive from us, our President and Council aforesaid,*" follow these clear words, "*or any other your superior Officer, according to the rules and discipline of war, &c.*" Which last words shew to demonstration the nature of the subordinate military service ; which indeed

indeed could not possibly be carried on for the good of the community, if nice points of political government, or reasons of state, or the *constructive sense of words*, were to be left to the private opinions or decisions of military officers before they executed the orders of their superiors. Nevertheless, I now proceed to shew, that the words *President* and *Council*, in the body of my commission, can only mean the *Majority of Council*; because, beyond the power of doubt or of quibble, the following are the express, clear, unrepealed, standing orders of the Honourable Company:

Standing Orders, dated January 1678, Paragraph 54th.

"Whatever shall be agreed on by the majority, shall be esteemed the order by which each one is to act; and accordingly every individual person, even the dissenters themselves, are to perform their parts in the prosecution thereof; and in so doing they do their duty, and must not be blamed for the event."

Instructions to Mr. Pitt, dated 9th March 1702.

"We do strictly enjoin, that all our affairs be transacted in Council, and ordered and managed as the Majority of the Council shall determine, and not otherwise, upon any pretence whatever."

Because in the body of the Commission of Government, and particularly where the word *Soldiers* occurs, it is said,

"And we do hereby give and grant unto our said President and Governor George Lord Pigot, and to our Council aforesaid, or the major part of them, &c. full power and authority from time to time to rule and govern all and every our Factors and Servants under the said Presidency, and all the Soldiers, &c."

Because, in the Commission of Lord Pigot as Governor, it is said,

"That he, as such, is subject nevertheless to all such rules, orders, and instructions, as have heretofore been given to the President and Council of Fort St. George aforesaid."

Besides, in the instructions 1774, the Governor and Council have expressly the power to supersede, alter, or annul any specific act either of the Governor or the Commander in Chief.

Instruc-

Instructions per Ashburnham, 1774, Paragraph 51.

"That if the Governor-general and Council shall at any time think proper to issue orders under their hands, or by their Secretary, to any officer in the army, and thereby to suspend or supersede the specific commands of the Governor-general, or military Commander in Chief, such orders shall be implicitly obeyed."

Can we then, without the greatest abuse of common sense, deny, that the Majority of Council is alone meant by the words *Governor and Council*?

After establishing the above clear propositions, to shew what is the Government, need I add any arguments drawn from the absurdity of allowing a power to the President, such as is contended for by the Gentlemen of that side, viz. That the personal consent of the President is essentially necessary in every act of government; That no other can propose or agitate any questions in the first instance: That he alone can adjourn or summons any meeting of Council; and other exclusive prerogatives, which amount to a Polish *veto*, upon every public or private question before the Board, and which, in fact, would reduce the Council to a set of insignificant puppets.

But in truth, neither according to the tenets held by the late Government, when they separated from Lord Pigot and his associates; nor, as I am informed, according to the express orders of the East-India Company, after the fullest information of all the late disputes, and received by the Swallow in August last, *though not yet published*, does such exclusive power lodge in the President here: on the contrary, excepting the *casting vote* upon an equality, no other power is lodged with the President, than is inherent in every other Member of Council.

As to the objection which I hear is *now* started in regard to the *want of form* in not meeting in the Fort Square in not inserting the word *President*, or in not giving *regular summons* by the Secretary, previous to the orders and instructions delivered to me, by the seven Members of Council, on the 23d of August, 1776, I can only say, that in that crisis I, and I suppose also those members, looked to *substance* and not to *form*.

They must have known perfectly well, that so long as Lord Pigot was in the Fort, as Governor and Commander in Chief, he would not obey any bit of paper from the civil power in the usual forms of law; also, that in regard to personal security or prudence, it would not have been proper for the majority of Council to have attempted meeting in the Council Chamber in Fort Square. They knew moreover, that the Secretaries were not to be found at the time, and the secrecy of the measure might make it necessary, that a member of the majority, at such a crisis, should himself officiate as Secretary (as was the case), thereby, in my opinion, authenticating more fully their resolutions; besides, common sense pointed out, that the act of a notary-public answered fully every public purpose of promulgating the orders of government; and the omission of the word *President*, which the majority might have inserted if they pleased, seemed to me a mark of their candour. All these reasons, and as looking to the substance, and the material parts of business at that crisis of affairs the 23d and 24th of August, made me conclude, and I dare say, it had the same effect upon all who acknowledged the late Government, that in their public manifestos, or orders, if they did not follow every immaterial punctilio, such as a regular summons through a Secretary, regular meetings in the Fort Square, or the insertion of the word *President*, it was owing either to necessity, or that they did not consider it as essential.

Will any man of common candour, laying his hand on his heart, after allowing that the majority of Council is the legal government, either with or without the President, say, that the omission of these formal and not essential things and words; I say, will any honest man think or say, that by such omission, the acts of a *Majority*, or of those who obeyed their orders, are thereby necessarily vitiated, and the constitution violated, to the degree of impressing and stamping every act of that government with the dangerous epithet of *usurpation*; which implies illegality, and may indeed produce anarchy and law-suits without end. I here in my own name, in respect to what concerns me, appeal against such a sentence, to the justice, the equity, the liberal construction, and common sense of mankind in general.

The conclusion I draw from what precedes, is, that if the government of this settlement is constitutionally vested in the *majority of Council*, and if it was expected of that majority to assert their au-

thority; he, Lord Pigot, and his associates, were the aggressors, and consequently the original cause of any subsequent violent measures; because all the circumstances of the late Lord Pigot's conduct, in regard to the expulsion of Messrs. Stratton and Brooke, necessarily forced the majority to take the steps they actually followed; considering what they knew of Lord Pigot's power, as military Governor and Commander in Chief, and perhaps, what they had reason to expect from the knowledge they had of his turn of mind and temper.

And now being called upon in my own defence, and in that of the officers, &c. of the army who followed my orders, I shall take leave to say a few words as to the degree of proof offered to the persons who are said *unanimously*, and upon oath, to have given their opinions, that *I was guilty of wilful murder*;—and without mincing matters, I will venture to say, at all risks, that the annals of the British history do not produce an instance of twelve men, assuming the name of Englishmen, or even English subjects, who, upon such sort of proof, ever gave such a cruel, irrational, inequitable sentence, falsely called a verdict. In saying so, I shall, to support my opinion, chiefly adduce the assertions used in what is called the informations of certain persons, mostly the reputed friends of Lord Pigot, said to have been examined upon oath by this meeting of these twelve men.

And here, lest I should forget, I beg your attention to the style of the informations, which to me seem to be as answers to certain questions leading to prove and establish a favourite system, adopted by that meeting, in order, by all artful means, to fix intentional guilt in the conduct of those who took an active part in the change of government the 23d and 24th of August 1776. The plan and system seems as if meant to prove, that the mode of arresting Lord Pigot, the detaining him in arrest, the attempt to carry him to *Chingleput* (which is represented as if meant for *Gingee*), and above all, the project of sending him to England by the *Lioness*, made such an impression on Lord Pigot's mind, that it brought on the disease of the liver, the bilious putrid fever, of which he recovered, and also, that increased liver complaint and bilious fever, which afterwards attacked, and in the end carried him off.

This

This I say seems to be the system of the meeting called the Inquest, and you will find all their sett questions were of the leading kind, to establish it.

I shall, as shortly as possible, analyse some of the principal informations, in these parts which are applicable to any idea or connection betwixt Lord Pigot's situation, while under restraint at the Mount, and any outward appearance, which, in my opinion, can give authority or sanction for an honest impartial judge by the laws of his country, by common sense, or common conscience, to declare to his certain knowledge and conviction, that I, or the Gentlemen whose names are by them dragged into public view, are guilty of the most horrid of all crimes, the *wilful murder* of Lord Pigot.

I premise in this place, that, in my humble opinion, this is the first instance where the vague uncertain reasonings of short-sighted mortals, as to the effect of the mind upon the body, the time, manner, and force of ideas operating upon matter, was ever brought by Englishmen, or any other men, to establish facts of such gravity or importance; for what can be more absurd, nay impious, than in such cases, to reason and draw consequences from the uncertain ideas of the operations of the human mind upon the body; or from such sort of proof, to form a judgment of the malicious intentional guilt of a third person?

The laws of our country (according to what I have heard) have in such cases left nothing to sentiment, conjecture, or idea. To establish the horrid act of *wilful murder*, the clear eye, or the unbiassed judgment must follow the hand of the murderer, and his malicious views and designs, without a halt or doubt, to the very minute of executing the fatal deed.

I never looked into a law-book in my life, so far as I remember, neither have I consulted, or been assisted by any lawyer, or any person whatever, on this occasion; but common sense defines *murder* thus in my opinion, and so far as I know of the manner of trying this question by the laws of England, it seems to admit of this construction, because of the unanimity necessary to decide as to the real criminality of a person accused; this admitted, let us now see on what evidence these twelve persons accuse me and others of *wilful murder*.

In this place, I think it proper to inform you, that I was absent from the Presidency on the public service, during the whole period of Lord Pigot's illness, and at the time of his death. His Lordship was known to have been in perfect health the 11th of February, when I left the Presidency, he died on the 11th of May, I did not return until the end of June.

To begin with what is mentioned in the *Diary* of the supposed inquest, signed a true copy by William Sedgeley, Clerk of the Peace. It is remarkable, that when the persons who were called together by the supposed Coroner, and in the *Diary* are styled the jurors, had been sworn over the dead body of Lord Pigot, the two principal Surgeons of the settlement, Messrs. *Pasley* and *Anderson*, are asked, Whether, from a further inspection of the body, and particularly from opening it, they can with greater certainty trace the cause of his death. Mr. *Pasley* pointedly replied: "*That a disease was the immediate cause of Lord Pigot's death*; that he apprehends, the jury are desirous of knowing the cause of that disease; and that in his opinion, the cause of the disease of which Lord Pigot died, cannot be discovered by opening the body." Mr. *Anderson* replied to the same purpose, and told them, "That he had brought the proper instruments, if it was thought necessary to open the body." Upon which the (supposed) jury, considering, "That if the Surgeons cannot acquire any further knowledge of the cause of the disease, of which Lord Pigot died, by opening the body; they think it unnecessary that the body should be opened;" and the body was accordingly buried the same evening.

The clear inference which I draw from this first and leading part of the proceedings of the supposed Inquest, is, That there were no marks of *violence* or *poison*, after the most careful view of the body of the late Lord Pigot; on the contrary, there was the opinion of two men able in their professions, and of undoubted good character, that Lord Pigot died in consequence of *disease*, and therefore I say a *natural death*.

And here, according to my idea of impartial justice, a stop should have been put to any future criminal prosecution, whether by inquest, or otherwise; for as the supposed Jury were satisfied of the truth of Messrs. *Pasley* and *Anderson's* declarations, all their future inquiries

inquiries could only tend to metaphysical questions, or to hear the guesses of individuals regarding the manner, time, and force, of the passions operating upon the mind and body; and I believe their meeting afterwards, and continuing by adjournment to meet, at the house of George Smith, who is called the Foreman, under the assumed form of Jury or Inquest, is the first instance where the venerable name of English law was made use of for such purposes.

The fact then is admitted, that Lord Pigot died of *disease*, and that no unnatural signs or marks of violence appeared upon his body.

I observe also in this Diary, that at one remarkable period, upon Monday the 30th of June, on collecting the voices of the twelve persons who are said to compose the supposed Jury, six of them were of opinion, that the offence incurred by the death of Lord Pigot can be considered as no less than *murder*, and six deemed it as amounting to *manslaughter* only. On which, it says, the Coroner observes, *that the voices being equal it must be reconsidered*; if this is law, I know not; but I am sure, in my opinion, it is repugnant to any idea of justice and mercy, because the difference of judgments admits of the greatest doubts of the real criminality.

The *Diary* is silent as to the arguments used by the Coroner or others, to bring over the six men, whose manslaughtering mercy, I should for my own part, give them no merit for, because equally as absurd as the others direct unjust cruelty. I only find that they too gave way, for I see twelve have signed their names to this cruel opinion, which, so far as in their power, constitutes me a *murderer*.

I believe such grounds for judgment, and such sport with any man's life, was never before exhibited; for in fact, in the way this Inquest have now determined, it had been a better chance for me, if the Coroner had put my fate in his hat, on two slips of paper, *life* or *death*, and that *another*, not the Coroner himself, had drawn my fate, according to the practice of the India-House in cases where there is an equality.

This Inquest, as I am credibly informed, went to England by the *Hector* in July, so far at least as regarded the proceedings then taken, and before the final verdict; and I am undoubtedly informed,
that

that the whole of the proceedings, together with the verdict, were transmitted to England by the Swallow, the 21st of September. The purposes there meant to be served (before I and others had an opportunity of giving a defence) may without difficulty be guessed at.

A comparison of dates is often of great use to put facts in a proper point of view, and I beg your attention to the following extract of the said Diary.

11th of May. Lord Pigot's body inspected, and no marks to indicate unnatural death. He is buried;—the supposed Inquest adjourn to George Smith's house.

They continue to do business in *their own way*, adjourning from time to time.

30th of June. This supposed Jury divide, six of them pronounce the offence in law to be *murder*, and six say it is only *manslaughter*, on which the Coroner desires to have it reconsidered.

N. B. Mr. Dalrymple's first accounts, so favourable to the friends of Lord Pigot, are received at Madras the 3d of July.—*This note is not marked in the Diary.*

30th of July. The supposed Jury find their verdict. *Murder.*
7th or 8th of August, The supposed verdict signed.

I find moreover in the same Diary, that on the 5th September, the minutes of the supposed Jury are again read in the house of George Smith the supposed Foreman; at which time two of the supposed Jurors, Messrs. De Fries and Ewing, deliver in letters, declaring their reasons for signing the verdict, *contrary to their private opinion*. This signing indeed is most extraordinary in them, and I should be glad to be informed, what arguments had been used by the Coroner, or by any other person present, to induce them to put their names to such a verdict; for I find on the 24th September this supposed Coroner held these Gentlemen to their subscriptions, and wrote to them, that he had thought it improper to comply with their request, which was only to enter their letters upon the minutes of the proceedings of the supposed Inquest.

Thus far I have remarked upon this supposed inquest, which after admitting, that there was no outward appearance of violence, or marks to cause suspicion, on the body of the late Lord Pigot, and having the positive declaration of Messrs. Pasley and Anderson, that he died of *disease*, yet, nevertheless, they the supposed Coroner and Jury did afterwards meet at the house of George Smith, and continued to meet as a supposed Court of Inquest, from the 11th of May to the 7th or 8th of August, or even the 24th of September following, the space of three months, chiefly to ask pointed questions, and opinions concerning the cause or causes of the disease of which the late Lord Pigot died; which to the Europeans of this settlement is universally known to be the lot of almost every one (mine it has been severely) resident here, at some one period of his life; for the disease that affected Lord Pigot in the first stage (of which he recovered to all appearance), and also after the relapse, and of which he died, *was a putrid bilious fever, originating in a disordered liver.*

Now let us collect from the declarations of the following persons, many of whom the intimate friends of Lord Pigot, what degree of certainty, even in their ideal proof, is established by this metaphysical Court of Inquest.

Messrs. *Pasley* and *Anderson*, on reviewing the body in presence of the Twelve, declare, Lord Pigot died of disease, as has been already noticed, and nothing unnatural therefore appeared upon the body.

Mr. *Russell*, who says that from the time of Lord Pigot's last arrival in India, he was hardly one day absent from him (excepting when Lord Pigot was at Tanjore), *declares*, That during Lord Pigot's confinement his health appeared to be very good, until the *fifth or sixth day of March*, though his Lordship's friends thought the disease which the Surgeons represented to be bilious, might have been lurking in his body for some time. Suppose this time to be eight or ten days, because Mr. *Russell* mentions *actually* that time; this, at the utmost, brings the first notion of the *lurking stage* to the last week of February. He adds, That Lord Pigot grew better towards the end of March, and that he relapsed in the beginning of April.

Here then by Mr. *Russell's* declaration (who saw him daily) is the *visible* beginning of Lord Pigot's bilious disorder, brought to the *fifth*

fifth or sixth of March, and by conjectures of his friends the *invisible* beginning, to the last week of February.—Lord Pigot gets to all appearance well, and afterwards relapses.

Mr. *Monckton*, son-in-law to Lord Pigot, declares, That during the first part of Lord Pigot's confinement, he was in very good health, and that his illness was first apparent about the fourth or fifth of March; that Lord Pigot towards the end of March got better a good deal; early in April he was again taken ill, and continued growing worse, &c.

Now let us see what Mr. *Stone* says: Mr. Stone went to reside at the Mount, the beginning of October. This person says, That Lord Pigot appeared to enjoy a good state of health, until the latter end of December, or beginning of January; he (*Stone*) *had already said*, That his Lordship's spirits from that time appeared not so good as before, and that he seemed full of anxiety. Mr. Stone adds, That Lord Pigot was taken ill some time between the first and eighth of March.

N. B. When any person gives his opinion, as is the present case upon oath, I wish to attribute all difference of expression to shortness of memory, or mistaken judgment of appearances.

Here is then a difference of two months as to the beginning of Lord Pigot's disease, in the opinion of Mr. *Russell*, who never quitted him a day, and also of Mr. *Monckton*, from that given by Mr. *Stone*. But Mr. Stone had formed to himself a system, and he judged for Lord Pigot differently from his bosom friends, Mr. *Russell* and Mr. *Monckton*, and I believe from *Lord Pigot* himself, and every other person who then lived at the Mount.

Mr. Stone labours to prove, That Lord Pigot's health was directly affected by the letter of the late Government to Bengal, and the reports about sending him home by the *Lioness*. Now, unluckily for this hypothesis, the dates are as follows:

The letter to the Governor-general and Council for an opinion concerning the removal of Lord Pigot is dated the 19th of October. The reports current in this settlement were about 20th or 21st October. The note of Mr. Stratton, which really did remove these apprehensions, was dated 7th January; the official notice the 20th January.

The inference I wish to draw from these two accounts is, that if we see men in habits of intimacy with Lord Pigot, differ in opinion so widely even in the *visible* outward appearances of his illness, how much more reason have we to distrust the opinion of people who reason upon *immaterial invisible* subjects.

In short, I believe every person who was examined, except *Mr. Stone*, agree in their accounts, that to all outward appearances Lord Pigot enjoyed an uninterrupted state of good health until about the beginning of March, and it seems from the examinations to be generally agreed, that Lord Pigot did unnecessarily expose himself to the sun by working in the garden, appearing without his hat; and perhaps his Lordship injured his health by abstaining from the usual exercise in the chaise; but this last sort of exercise, or any other he thought proper, was in his power at all times to have had if he so chose.

I say, therefore, that in what concerns Lord Pigot's illness, both first and second, nothing appeared but what may be ascribed to natural causes; I mean such as are incident to every person in this settlement, whether under restraint or not; for I believe there is no law to justify in similar cases any conjecture or opinion in regard to the impressions of Lord Pigot's mind upon his body, so as to infer intentional guilt on the part of those who, for reasons of state, put some degree of restraint upon him, to prevent his entering this fortress, which might have been of real bad consequences to himself, as well as to his friends, and also to the public; and if any expressions of persons on examination denote a degree of certainty, that this restraint did contribute to his illness, the utmost that can be inferred from it is, that it is matter of their private opinion, but no legal evidence or sufficient proof.

I see by the Diary, that the supposed Jury had a fixed plan to investigate these operations of the mind, and in consequence examined several persons. I do not think it at all necessary to repeat what was only their conjectures; but it well deserves notice what *Doctor Anderson* positively swears to, viz.

"That Lord Pigot told him he (*Lord Pigot*) could almost tell the day when he became ill; he had been working in the garden till late in the sun, that he came in very hot (as *Mr. Anderson* thinks Lord Pigot said) to *Mr. Monckton's* house and drank something (he thinks he said Punch), and was very much over-beated, &c."

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Mr.

Mr. Anderson afterwards observes, "That as to the impression on the mind of Lord Pigot, occasioned by the attempt to remove him from the Mount, he thinks in compliment to Lord Pigot's memory it could have no considerable effect, because he understood that Lord Pigot enjoyed a great degree of health for some time after that attempt."—And as to how long my Lord Pigot's disease might have been dormant in his constitution, before the visible effect of it appeared, Mr. Anderson thinks "that Lord Pigot had no local disease in the parts which were afterwards affected, till the time that he was overheated as before mentioned." Mr. Anderson further observes, "That the season of the year during Lord Pigot's illness was the hottest season of the year, and that Farenheit's Thermometer was at 95, 96, and 97 degrees every day at that time in the shade."

I say that this information of Mr. Anderson, which conveys the very ideas of Lord Pigot himself, with regard to the immediate cause of his illness (whether the first or second attack is immaterial), of itself outweighs volumes of other people's conjectures; besides that it conveys other essential circumstances, amounting to the greatest degree of certainty, that Lord Pigot's illness arose from ordinary and natural causes, peculiarly incident to the human body in this climate;—and with this clear evidence I shall close what I have to say on the supposed Jury or their Diary.

I am really at a loss to know, what are the real true motives of the persons who call themselves Lord Pigot's friends, in endeavouring to persecute me and others, even to death, upon such sort of proof; surely they pay but a poor compliment to his memory, to suppose that he was overborne by the circumstance of his situation, to such a degree affecting his spirits, and his health, as to occasion his death: I ever had, and still have a much better opinion of Lord Pigot's spirit and fortitude of mind, which I believe he possessed in a very eminent degree, and there is nothing in fair proof appears to the contrary.

I have already said enough as to the uncertainty and fallacy of human reason, in judging concerning any other person's thoughts and feelings; I must here add, that were we to admit in Lord Pigot's case, that the agitation of his mind, on account of the political differences in the settlement, did contribute to the illness of which he died, it will be found, that his own supposed friends, as

also the Governor-general and Council of Bengal, have their share of guilt in this respect, in common with the late Government; the first, in teizing him with alarms, and supposed plots, and hearsay stories; the other, in giving their opinion according to what they thought was their duty; for we observe in Mr. Haliburton's information, that when he brought from Mr. Stone or Mr. Russell, the copy of the Governor-general and Council's letter about sending Lord Pigot home, he (Lord Pigot) read it with seeming agitation; and Mr. Haliburton says, he remembers perfectly the strong expression Lord Pigot made use of, *Would you not think, says he, they are treating me as a mad dog.* Mr. Haliburton adds, that he perceived his Lordship's spirits to be depressed, and a visible alteration on him since the time of the intention of sending him home was known to Lord Pigot; and yet, as is observed before, such evident change was not observable to Mr. Russell, to Mr. Monckton, nor, as it seems, to Lord Pigot himself, before the end of February or the beginning of March.

On this occasion, I take leave to say, that Lord Pigot's memory is injured by such conjectures or assertions, at least, if I may be suffered to speak of myself, in my present situation, I should not think that by such reasoning I was obliged to any person, nor would I therefore look upon him as my real friend.

My case is singular enough; I at present find myself, contrary to every reasonable hope or expectation, or assurance before leaving England, suspended, and even superseded, in the Company's service, by orders of superiors at home, *without a fault alleged*; unjustly charged at the same time with the most atrocious crime possible, and subject to the course of law in the settlement, where I had the honour to command the army, and where I am bold to say, I had conscientiously done my duty, in every respect, with the greatest degree of *anial*; I say, were I in these evident present sufferings, to allow my imagination to increase them by adding or anticipating other misfortunes, or if I were voluntarily to deny myself the proper or usual food, exercise, and amusement, the natural consequence, in all human probability, would be a second fit of illness, perhaps fatal; and if so, I ask, Would my honourable employers think it just to be accused of *murder*, because they were pleased to order me to be suspended or superseded for reasons best known to themselves? No; I believe that no jury in England would be found to give such a verdict; for my own part, I here declare, that such sort of re-

venge or recrimination would be a censure on my memory, for I shall endeavour to shew myself superior to such accidents, and if I die at this time, I trust my friends will so far respect my memory, as never to suppose, that I succumbed under the pressure of such misfortunes, or that it was in the power of any man, or body of men, to make me so far forget the part of a man of true fortitude.

I have thus, at more length perhaps than was necessary for my own defence, as a soldier acting under orders, or for the defence of Lieutenant-colonel Horne, Captains Lyfaght and Edingtoun, and others who acted by my orders, entered into the merits of the charge before you, but I hope the public motives will serve as an apology, because although I am only responsible for the execution of the orders given me the 23d of August 1776, yet, after the fullest information from the Gentlemen of the late Government, I took my part, and I did it from the clearest conviction of the necessity of the measure at that crisis; and therefore I think myself interested on their accounts, as well as my own, to endeavour to carry to your minds the same degree of conviction, which I then felt, and now feel in my own mind, as to the necessity of the times, and as to the innocence of the late administration, with respect to any wilful intentional acts affecting Lord Pigot's health or personal safety.

But in regard to my own defence, against the heavy charge or imputation of *wilful murder*, and what respects the officers or others of the army, mentioned in the supposed verdict, I trust from what I have already said, and from the words and clear meaning of my commission, from the practice of military service in all countries; but more particularly, as being held by the sacred oath of fidelity to the Honourable Company, according to my commission, which at the time was subordinate to that of Sir Robert Fletcher, that you, Gentlemen, will see I was bound to obey the order of him (Sir Robert Fletcher) my superior at the time, according to the rules and discipline of war; he (Sir Robert Fletcher) was of the Council, and responsible, and I saw his name joined with a clear Majority of Council, which together I obeyed; not only as a soldier, for the reasons already stated; but as the joint legal representatives of the Honourable East India Company, who had a right to command my obedience, without entering into any explanation, seeing that at the time I had no claim to a seat or voice in Council.

For all these reasons, and for others which I do not mention, because I trust they must occur from your own knowledge of the proofs adduced, and your equitable construction of the laws and constitution both of England and of the East India Company, in the government of their concerns within this presidency, I positively deny the truth of the charge or imputation conveyed in the supposed verdict, and declare in your presence, before God, and to all the world, that I am not, in any sense or respect, either by act, intention, or thought, guilty of the wilful murder of the late Lord Pigot.

(Signed)

JA^S. STUART.

F I N I S.

For all these reasons, and for others which I do not mention, because
I trust they must appear from your own knowledge of the goods and
husband, and your constant conversation, the laws and constitution
both of England and of the East India Company, in the govern-
ment of their concerns, I positively deny, I positively deny
the truth of the charges, and declare, in the presence of God, and to all the
world, that I am not, and never was, either by act, in-
tention, or through negligence, the author of the late loss.



J. A. STUART.

(Signed)

F I N I S

